



## PATENT

### IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.: 09/889,116                      Examiner: Nina Nmn Bhat  
Inventors: Woltjes et al.                      Group No.: 1761  
Confirm. No.: 7934                      Docket No.: 294-104 PCT/US  
Filed: December 27, 2001

For: COMPOSITION BASED ON CROSS-LINKED  
STARCH AND DEPOLYMERIZED STARCH  
SUITABLE AS GELATINE REPLACEMENT

### DECLARATION UNDER 37 CFR 1.131

I, Jakob R. Woltjes, state the following:

1. I am one of the inventors of the above-referenced patent application.
2. I have worked in the Food Division of Avebe for more than twenty-five (25) years and have held a variety of positions in the Research And Development Group. In my current position, I am an Application Specialist in the Research and Development Group. I have extensive knowledge relating to the processing and uses of starches and food products made from starches. I graduated from a four-year, full-time program at a lab technician school and I have attended courses on food technology, toxicology and related subjects at the Wageningen University of Agriculture for approximately ten semesters.
3. I have read and understood the Office Action mailed on July 25, 2003 in the above referenced patent application. I have also read and understood U.S. Patent No. 6,093,439 to Whaley et al. This declaration is being submitted in response to the Office Action and in support of the above-referenced application.

4. Attached to this declaration as Exhibit A are the notes from a meeting that I attended in connection with my work on the present invention. The notes show that we had discovered a starch composition comprising a cross-linked starch and a depolymerized starch similar to the invention claimed in the present application. The meeting notes state at page 1:

During the mixing of existing products, it was discovered by chance that a mixture of 75 % Perfectamyl Gel NF and 25 % Farinex VA 85 T resulted in end products having good texture products. Specifically the elasticity is excellent. Although the product does not correspond exactly with gelatin, customers are enthusiastic about the properties.

I am one of the authors of the meeting notes and I know that the document was written prior to May 8, 1998. The original meeting notes are in Dutch. An English translation of the meeting notes is being provided as part of Exhibit A. I am fluent in both English and Dutch and I have reviewed the English translation of the meeting notes and find it to be an accurate translation.

5. Attached to this declaration as Exhibit B is a report that I wrote relating to the work that I was doing on the invention which is the subject of the present application. At page 4 of the report, I concluded that: "After all these trials it can be concluded that a recipe based on Fairnex VA 85T and Perfectamyl Gel NF in a ratio of 25/75 result in a moulded confectionery product with a good clarity and an elastic texture." Farinex VA 85T is a cross-linked starch and Perfectamyl Gel NF is a depolymerized starch. I authored this document prior to May 8, 1998.

6. In the Summary of the Report that is attached hereto as Exhibit B, I wrote:

By coincidence the elastic texture of Farinex VA 85T was discovered, during dairy trials. Because of this and Avabe's goal to have a good gelatin replacer, Farinex VA 85T was tried in confectionery recipes in combination with a fast gelling starch (Perfectamyl Gel NF).

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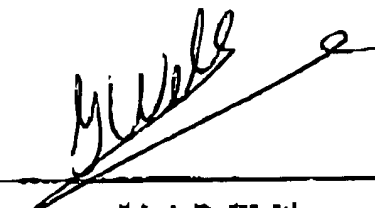
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Combinations of these two starches results in clear and rather elastic products, when dried at 50°C. It is possible to produce a wine-gum with a elastic texture and a good clarity without using any gelatin.

7. From the conception of the invention as described in Exhibits A and B until the present application was filed under the Patent Cooperation Treaty on January 29, 1999, I and the other the inventors did not abandon the invention and pursued the patenting of our invention with due diligence.

8. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the lie so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated: November 14, 2003

  
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Jakob R. Waltjes

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